



OFFICE OF THE POLICE COMMISSIONER
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February 5, 2015

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Anthony Lagala**
Tax Registry No. 929418
17 Precinct
Disciplinary Case No. 2013-10879

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on July 23, 2014, and was charged with the following:

DISCIPLINARY CASE NO. 2013-10879

1. Police Officer Anthony Lagala, assigned to the 17th Precinct, on or about and between September 1, 2013 and October 15, 2013, failed to report to the Department that he found a contraband firearm, to wit, a .32 Smith and Wesson caliber revolver, serial # 222029, in the confines of [REDACTED], and improperly stored said contraband firearm in a safe at his residence.

P.G. 218-26, Pages 1-3

**PROCESSING FOUND
PROPERTY
PUBLIC CONTACT-
PROHIBITED CONDUCT**

P.G. 203-10, Page 1, Paragraph 5

2. Said Police Officer Anthony Lagala, while assigned as indicated above, on or about March 4, 2013, while on-duty, made a request to a Member of Service to utilize Department computers to access Department records for personal reasons unrelated to the official business of the Department or the City of New York.

P.G. 219-14, Page 1, Paragraph 2

**DEPARTMENT COMPUTER
SYSTEMS**

3. Said Police Officer Anthony Lagala, while assigned as indicated above, on or about and between October 24, 2013 and November 7, 2013, while off-duty, failed to notify his Commanding Officer of approximately five (5) visits he made to see Person A, while he was incarcerated at Riker's Island Correctional Facility.

P.G. 205-63, Page 1, Paragraph 1

**MONITORING OFF-DUTY
VISITS TO INMATES AT THE
CORRECTIONAL FACILITIES
BY MEMBERS OF THE SERVICE**

In a Memorandum dated November 6, 2014, Assistant Deputy Commissioner David S. Weisel found the Respondent Guilty as charged, after he pleaded Guilty to Specification Nos. 1, 2 and 3 in Disciplinary Case No. 2013-10879. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

In consideration of the totality of the issues and circumstances in this matter, I deem that a period of monitoring is warranted. Therefore, the Respondent is to forfeit thirty (30) vacation days and be placed on one (1) year dismissal probation, as a disciplinary penalty.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

November 6, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Anthony Lagala
Tax Registry No. 929418
17 Precinct
Disciplinary Case No. 2013-10879

The above-named member of the Department appeared before the Court on July 23, 2014, charged with the following:

1. Said Police Officer Anthony Lagala, assigned to the 17th Precinct, on or about and between September 1, 2013 and October 15, 2013, failed to report to the Department that he found a contraband firearm, to wit, a .32 Smith and Wesson caliber revolver, serial #222029, in the confines of [REDACTED], and improperly stored said contraband firearm in a safe at his residence.

P.G. 218-26, Pages 1-3 – PROCESSING FOUND PROPERTY
P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

2. Said Police Officer Anthony Lagala, while assigned as indicated above, on or about March 4, 2013, while on-duty, made a request to a Member of Service to utilize Department computers to access Department records for personal reasons unrelated to the official business of the Department or the City of New York.

P.G. 219-14, Page 1, Paragraph 2 – DEPARTMENT COMPUTER SYSTEMS

3. Said Police Officer Anthony Lagala, while assigned as indicated above, on or about and between October 24, 2013 and November 7, 2013, while off-duty, failed to notify his Commanding Officer of approximately five (5) visits he made to see Person A, while he was incarcerated at Riker's Island Correctional Facility.

P.G. 205-63, Page 1, Paragraph 1 – MONITORING OFF-DUTY VISITS
TO INMATES AT THE CORRECTIONAL
FACILITIES BY MEMBERS OF THE
SERVICE

The Department was represented by Vivian Joo, Esq., Department Advocate's Office. Respondent was represented by John Tynan, Esq. Worth, Longworth & London LLP.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

RECOMMENDATION

Respondent, having pleaded Guilty, is found Guilty.

FINDINGS AND ANALYSIS

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 21, 1985. He was reappointed on April 4, 2002 (see discussion at p. 4, infra). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

This case arose out of problems in Respondent [REDACTED] Person A and Person B, lived with him [REDACTED]. Person A owned a local barbershop. Narcotics sales, prescription medication to be specific, were taking place out of the barbershop.

[REDACTED]

As part of a large-scale investigation by federal law enforcement, a search warrant was executed at Respondent's home on October 15, 2013. Pills and cash were found in Person B's room and controlled substances were found on Person A. Person A and Person B were arrested, although

Person B was released after it was shown that the items found in his room were for legitimate use.

The authorities searched Respondent's safe, either as part of the warrant or to secure his service weapon. Inside the safe, aside from other weapons owned by Respondent, the agents also found a .32-caliber Smith & Wesson revolver. This was not listed on his Force Record.

Respondent asserted at trial that he found the .32-caliber revolver on the street that past September. He was walking his dog and the animal was kicking in the leaves. The dog kicked a paper bag there and out slid the revolver. Respondent said that he was worried about local children finding the weapon so he took it. He also maintained, however, that he was unsure if the weapon was real. To him it looked like an Old West-type of toy gun or a movie prop. It had what appeared to be a white plastic handle but the barrel was metal. Respondent did not call the local precinct or otherwise notify the Department, however. Instead, he put it in his safe. The Advocate represented at trial that law enforcement researched the gun and found that it was not connected to any known crime.

The Internal Affairs Bureau was present for the search warrant execution so it evidently was known that a member of the service lived at the home. In fact, it was evident that IAB investigated Respondent significantly in connection with Person A's and Person B's activity. A computer-use inquiry by IAB revealed that the names of both Person A and Person B were run by another member of Respondent's command. Respondent admitted at the mitigation hearing that in March 4, 2013, he asked the telephone switchboard/property officer to run the names. Respondent wanted to know about one of Person A's prior arrests. He also wanted to check Person B's driving record. Respondent said that he did not check on his own because he was "not good on the computer" and did not have the proper code anyway.

IAB also discovered that Respondent made several visits to Rikers Island, where Person A was in custody. These visits were not prohibited per se but Patrol Guide § 205-63 mandated that Respondent first inform his commanding officer of the visit in writing. The CO then could approve or disapprove the request. The CO also had to notify IAB. Respondent, who has nearly 30 years of experience with the Department, contended that he was unaware of this procedure.

The Department asked for a penalty of the forfeiture of 30 vacation days. Respondent countered that the penalty should be more along the lines of 10 vacation days.

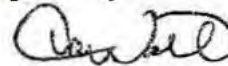
Respondent has had a long and dedicated career as a police officer, but also has a lengthy disciplinary record. Much of it is in the past, but his record contains serious misconduct. He pleaded guilty in 1997 to storing an unauthorized gun in his locker. He was terminated from the Department two years later after being found guilty of inaccurately writing summonses and operating a scooter without qualification. In 2001, the Appellate Division remanded the matter for a redetermination of penalty, ruling that dismissal was shocking to the Court's sense of fairness. Matter of Lagala v. New York City Police Dept., 286 A.D.2d 205 (1st Dept. 2001). In 2002, Respondent was reinstated to the Department and, aside from a command-level summons-case infraction, had an excellent record until the instant cases. - p. 47. Exhibit 8 Var.

Here, Respondent found himself in a difficult situation. He had to balance his obligations as a police officer [REDACTED] In trying to do so he found himself under investigation. The tenor and course of the Department's investigation indicates that it perhaps did not fully and absolutely credit Respondent's claim that he found the gun on the street. Nevertheless, the weapon never was connected to any known crime. Further, Respondent understandably wanted to know what kind of trouble Person A and Person B were in. However, using the

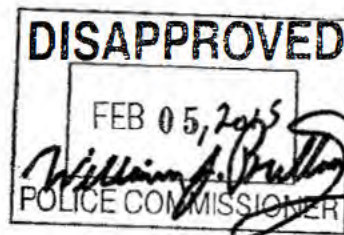
TS officer, whom few might question for looking up individuals' records on Department computers because it could be part of his job duties, was not the correct way of proceeding. Finally, a Department member who is a parent still must notify the Department when in the unenviable role of visiting [REDACTED] in a correctional facility.

Under the totality of the circumstances, 30 days is an adequate and more than fair penalty. See *Case No. 2012-7299* (July 22, 2013) (13 vacation days for 19-year detective with no prior disciplinary record for visiting and having telephone conversations with individual incarcerated on Rikers Island); *Case No. 85355/10* (Dec. 8, 2010) (25 days for 15-year police officer with no record who visited [REDACTED] three times in prison without her CO's permission; she also ran [REDACTED] name 41 times and [REDACTED] name 13 times in Department computers).

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ANTHONY LAGALA
TAX REGISTRY NO. 929418
DISCIPLINARY CASE NO. 2013-10879

Respondent received an overall rating of 4.5 “Highly/Extremely Competent” on his 2013, 2012, and 2011 annual evaluations. He has 11 medals for Excellent Police Duty and one medal for Meritorious Police Duty. [REDACTED]
[REDACTED]

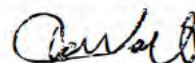
[REDACTED]
[REDACTED] He was placed on Level III Special Monitoring on September 12, 1997, and December 8, 2004, as a result of poor performance. He was placed on Level I Disciplinary Monitoring on September 20, 2010, as a result of negative performance/behavior.

In 1988, Respondent forfeited 20 vacation days for engaging in off-duty employment as a security guard for a courier service. In 1990, he forfeited 10 vacation days for being absent from his assignment without police necessity. In 1991, he was suspended for 24 days for: issuing a check for \$550 knowing that his account did not contain sufficient funds, being absent from his assignment for three-and-a-half hours, operating his private vehicle without insurance, and operating his private and Department vehicles without a valid driver's license.

Furthermore, in 1995, Respondent was suspended for 30 days and placed on one-year dismissal probation for carrying an unauthorized firearm instead of his authorized firearm. In 1999, as a result of events stemming in 1997 making inaccurate entries/omissions on about 403 summonses, failing to perform police duties and operating a police scooter incorrectly—he was dismissed from the Department. He was reinstated in 2002 after appeal.

For your consideration.

Respectfully submitted,



David S. Weisel
Assistant Deputy Commissioner - Trials